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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---------------------------------------------------------------------------------------|-------------|----------------------|---------------------|------------------|
| 09/992,974 | 11/19/2001 | Thomas Birkhoelzer | P01,0440 | 7671 |
| 26574 | 7590 | 01/14/2005 | EXAMINER | |
| SCHIFF HARDIN, LLP PATENT DEPARTMENT 6600 SEARS TOWER CHICAGO, IL 60606-6473 | | | REFAI, RAMSEY | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2154 | |

DATE MAILED: 01/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|------------------------------------|--|
| Office Action Summary | Application No. 09/992,974 | Applicant(s) BIRKHOELZER ET AL. | |
| | Examiner Ramsey Refai | Art Unit 2154 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11/19/2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>02/15/2002</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-22 are presented for examination.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference "*Network Interface*" has been used to designate both characters "9" and "13".

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claim 21 states "SAS phone". There is no explanation in the specification as to what this is and what "SAS" stands for.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 21 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 21 states “SAS phone”. There is no explanation in the specification as to what this is and what “SAS” stands for.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Parker et al (U.S. Patent No. 6,321,113).

8. As per claim 1, Parker et al teach a medical system architecture comprising:
- a modality for acquiring examination images (**column 1, lines 60-67, abstract, Fig. 1, 22, and column 3, lines 42-64; AED**);
- a workstation (**column 1, lines 60-67, abstract, Fig. 1, 26, and column 4, lines 8-10**) selected from the group of workstations consisting of workstations for acquiring said examination images (**column 3, lines 46-64**), workstations for sending said examination image, and workstations for receiving said examination images (**column 3, lines 46-64 and column 1, line 61-column 2, line 8**);
- a system connected to said workstation for transmitting said examination images to at least one location remote from said workstation (**column 3, lines 46-64, column 1, line 61-column 2, line 20 and column 4, lines 10-25**); and
- a call system allocated to said workstation for transmitting messages to a remote location (**column 3, lines 46-64 and column 1, line 61-column 2, line 20**).
9. As per claim 2, Parker et al teach a workstation also processes data associated with said examination images (**abstract, column 1, line 60 – column 2, lines 20**), and further comprising a memory connected to said system which stores said data and said examination images in allocated fashion (**column 3, lines 46-64 and column 4, lines 1-9**).
10. As per claim 3, Parker et al teach a call system allows manually modifiable entries of auxiliary information to ensue automatically from object types stored in a data bank (**column 2, lines 4-9, abstract, Figures 2-9, and column 4, line 47 – column 5, line 26**).

11. As per claim 4, Parker et al teach a call system comprises a user front end (**column 2, lines 4-9**), a communication service (**Figure 1, 30, 32**) and a mobile communication device (**Figure 1**).

12. As per claim 5, Parker et al teach a user front end is integrated in an application at said workstation (**column 1, line 60- column 2, line 10**).

13. As per claim 6, Parker et al teach communication services comprises a communication server and a communication system (**column 4, lines 20-25 and column 3, 28-35**).

14. As per claim 7, Parker et al teach a call system that allows a manually modifiable entry of a message recipient to ensue automatically in said message (**column 4, line 47 –column 5, line 15 and Figure 2-9**).

15. As per claim 8, Parker et al teach a call system allows a manually modifiable entry of a current patient, being examined with said modality, to ensue automatically in said message (**column 4, line 47 –column 5, line 15 and Figure 2-9**).

16. As per claim 9, Parker et al teach a manually modifiable entry of a current procedure being executed by said modality to ensue automatically in said message (**column 4, line 47 – column 5, line 15 and Figure 2-9**).

17. As per claim 10, Parker et al teach a call system that allows entry of an arbitrary text as specific auxiliary information in said message (**column 1, line 60 – column 2, line 20 and column 4, lines 17-36**).

18. As per claim 11, Parker et al teach a call system comprises a mobile communication device with a display (**Figure 1 and column 3, lines 35-41**).

19. As per claim 12, Parker et al teach a call system includes a voice input unit at said workstation allowing a voice input to be transmitted to said communication device as an audio data file, and wherein said communication device comprises an audio transducer allowing emission of said voice input at said communication device (**column 3, lines 41-64**).

20. As per claim 13, Parker et al teach a workstation has a monitor on which said examination images are displayed, and wherein said call system is connected to said workstation to cause a communication window to be overlaid on said examination images at said monitor (**column 3, lines 35-41, column 4, lines 43-67 and Figures 1-2**).

21. As per claim 14, Parker et al teach a call system comprises a mobile communication device with a display (**Figure 1**) and an information return channel from said communication device to said workstation allowing information to be transmitted from said communication device to said workstation (**Figure 1 and column 4, lines 17-25; communication link**).

Claim Rejections - 35 USC § 103

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

23. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parker et al (U.S. Patent No. 6,321,113) as applied to claim 1 above, and further in view of Choi (U.S. Patent No. 6,629,131).

24. As per claim 15, Parker et al teach fail to teach transmitting a confirmation of receipt of said message to said workstation after said message has been read.

25. However, Choi teaches a method with a function of reception confirmation after the read of the message (**abstract, Figure 3, and column 2, lines 59-column 3, line 11**). It would have been obvious to one of the ordinary skill in the art at the time of the applicant's invention to combine the teachings of Parker et al and Choi because Choi's use of reception confirmation in Parker et al's system would ensure that an expert or physician has read the sent medical information within a period of time in order to provide quick rescue of patients. If no response, rescue team can resend the vital information to other experts.

26. Claims 16-19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker et al (U.S. Patent No. 6,321,113) as applied to claim 1 above, and further in view of "Official Notice".

27. As per claim 16, Parker et al fail to teach the workstation communicates with said communication service via Corba technology.

28. However, "Official Notice" is taken that both the concept and advantages of using Corba technology is well known and expected in the art as evident in *Microsoft Computer Dictionary 5th Edition*, page 131. It would have been obvious to one of ordinary skill in the art to use Corba technology in Parker et al's system because it would allow programs that are written in two different programming languages to communicate with each other, for example, an ECG and a workstation would be able to communicate without the need for additional software.

29. As per claim 17, Parker et al fail to teach the workstation communicates with said communication service via Instant Messaging technology.

30. However, "Official Notice" is taken that both the concept and advantages of using Instant Messaging technology is well known and expected in the art as evident in *Microsoft Computer Dictionary 5th Edition*, page 276. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to use Instant Messaging in Parker et al's system because it would allow a rescue member to message a physician regarding a patient's status.

31. As per claim 18, Parker et al fail to teach the workstation communicates with said communication service via Java Enterprise Beans technology.

32. However, "Official Notice" is taken that both the concept and advantages of using Java Enterprise Beans technology is well known and expected in the art as evident in *Microsoft Computer Dictionary 5th Edition*, page 294. It would have been obvious to one of the ordinary skill in the art at the time of the applicant's invention to use Java Enterprise Beans technology in Parker et al's system because it would allow for a workstation that transmits medical data using a Java browser to run on any platform allowing for a rescue member to send vital medical data without complications.

33. As per claim 19, Parker et al fail to teach the user front end comprises a Java applet in a browser.

34. However, "Official Notice" is taken that both the concept and advantages of using Java applet in a browser is well known and expected in the art as evident in *Microsoft Computer Dictionary 5th Edition*, page 294. It would have been obvious to one of the ordinary skill in the art at the time of the applicant's invention to use Java applet in a browser in Parker et al's system because it adds multimedia capability and interactivity to any webpage, allowing medical data sent on a webpage to a physician to include interactive data such as an ECG result or voice from a patient.

35. As per claim 22, Parker et al fail to teach a beeper with a display.

36. However, "Official Notice" is taken that both the concept and advantages of using a beeper is well known and expected in the art as evident in *Microsoft Computer Dictionary 5th Edition*, page 388. It would have been obvious to one of the ordinary skill in the art at the time of the applicant's invention to use a beeper in Parker et al's system because it would provide a physician or remote expert mobility by notifying them of a medical emergency without the need to physically locate them, which would take crucial time during a life and death situation.

37. Claims 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker et al (U.S. Patent No. 6,321,113) as applied to claim 1 above, and further in view of Shiigi (U.S. Patent No. 6,304,898).

38. As per claims 20 and 21, Parker et al fail to teach a WAP or a SAS cell phone.

39. However, Shiigi teaches the use of a WAP phone (**column 1, lines 35-50, column 3, lines 45-58, and column 8, line 30**). It would have been obvious to one of the ordinary skill in the art at the time of the applicant's invention to combine the teachings of Parker et al and Shiigi because Shiigi's use of a WAP phone in Parker et al's system because it would provide a physician or remote expert mobility by notifying them of a medical emergency without the need to physically locate them, which would take crucial time during a life and death situation.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Stoval, III et al (U.S. Patent No. 6,411,299)
- b. Groezinger (U.S. Patent No. 6,101,407)
- c. Sjoqvist (U.S. Patent No. 6,610,010)
- d. Tipirneni (U.S. Patent No. 6,381,029)
- e. Edwards et al (U.S. Patent No. 6,598,084)
- f. Webb et al (U.S. Patent No. 6,699,187).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramsey Refai whose telephone number is (571) 272-3975. The examiner can normally be reached on M-F 8:30 - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Ramsey Refai
Examiner
Art Unit 2154

RR
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